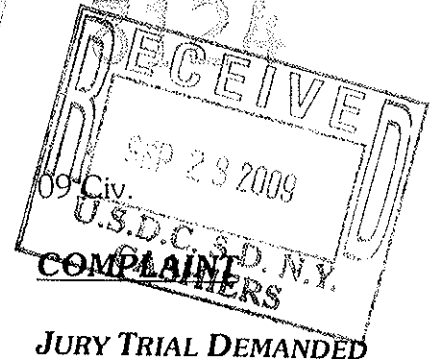


JUDGE CROTTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

09 CIV



-----X  
WILLIAM CRUZ,

Plaintiff,

-against-

ONLY PROPERTIES, LLC and  
BONCHON CHAMBERS CORP.,

Defendants.  
-----X

Plaintiff, by his attorneys, Jaroslawicz & Jaros, LLC, complaining of the defendants alleges as follows:

**THE PARTIES**

1. At all times hereinafter mentioned, plaintiff is a citizen of the State of New Jersey.
2. At all times hereinafter mentioned, the defendant Only Properties, LLC ("OP") was a domestic corporation, duly organized and existing under and by virtue of the laws of the State of New York.
3. At all times hereinafter mentioned, the defendant OP had its principal place of business in the State of New York.
4. At all times hereinafter mentioned, the defendant OP owned the premises known as 98 Chambers Street, New York, New York.
5. At all times hereinafter mentioned, the defendant OP operated the aforementioned premises.

6. At all times hereinafter mentioned, the defendant OP maintained the aforementioned premises.

7. At all times hereinafter mentioned, the defendant Bonchon Chambers Corp. ("Bonchon") is a domestic corporation, duly organized and existing under and by virtue of the law of the State of New York.

8. At all times hereinafter mentioned, the defendant Bonchon had its principal place of business in the State of New York.

9. At all times hereinafter mentioned, the defendant Bonchon operated a restaurant known as BonChon Chicken at the aforementioned premises.

10. At all times hereinafter mentioned, the defendant Bonchon maintained the aforementioned restaurant.

#### **JURISDICTION AND VENUE**

11. That the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

12. That this Court has jurisdiction over the parties by reason of diversity of citizenship of the parties and the amount in controversy, pursuant to 28 U.S.C. 1332.

13. Venue is properly placed in the United States District Court for the Southern District of New York since the, the defendant does business here, the occurrence occurred here, the witnesses are located here, and this is the most convenient place for the trial of this action.

**THE UNDERLYING FACTS**

14. At all times hereinafter mentioned, the plaintiff was employed Consolidated Edison Company of New York, 4 Irving Place, New York, New York, as an inspector and general services representative.

15. On or about September 11, 2009, plaintiff was required to be in the basement of the aforementioned premises.

16. Due to the defendants' recklessness, carelessness and negligence, plaintiff was caused to fall, as a result of which he suffered severe and permanent personal injuries.

**AS AND FOR A FIRST CLAIM FOR RELIEF**

17. The defendants, by their agents, servants and/or employees, were reckless, careless and negligent in creating a trap, a hazard and a nuisance; in failing to have efficient and sufficient personnel; in creating a dangerous condition; in failing to properly maintain the stairs; in permitting the stairs to be in an extreme state of disrepair; in having broken steps; in failing to have proper handrails; in failing to have proper lighting; in failing to provide plaintiff with a safe place to work pursuant to Section 200 of the Labor Law of the State of New York; in violating applicable laws, rules and regulations, including the Multiple Dwelling and the New York City Health Code; and defendants were otherwise reckless, careless and negligent.

18. As a result of the defendants' negligence, plaintiff was caused to suffer severe and permanent personal injuries to his right shoulder, back and other parts of the body; plaintiff required medical care and attention and will require such care and attention in the future;

plaintiff will require physical therapy; extreme pain and suffering; mental anguish and distress; plaintiff requires medication for pain; difficulty sleeping; unable to attend to his usual duties and vocation; and plaintiff has been otherwise damaged, all of which damages are permanent in nature and continuing into the future.

19. By reason of the foregoing, defendants are jointly and severally liable pursuant to the exceptions set forth in the CPLR.

20. By reason of the foregoing, plaintiff is entitled to recover all of his damages from the defendants.

**AS AND FOR A SECOND CLAIM FOR RELIEF  
AS AGAINST BONCHON CHAMBERS CORP.**

21. Plaintiffs hereby repeat, reiterate and reallege each of the foregoing allegations with the same force and effect as if more fully set forth at length herein.

22. The defendant was operating a mercantile establishment as defined in Section 376 of Labor Law of the State of New York.

23. The defendant violated Section 376 of the Labor Law of the State of New York in failing to properly maintain its mercantile establishment; in failing to properly construct and equip its mercantile establishment so as to provide adequate protection to the plaintiff and others frequenting the establishment; in having floors and stairs that were not in a safe condition; and the defendant was otherwise negligent.

24. By reason of the defendant's violation of Section 376 of the Labor Law of the State of New York, plaintiff was caused to suffer severe and permanent personal injuries as set forth above.

25. By reason of the foregoing, plaintiff is entitled to recover all of his damages from the defendants.

WHEREFORE, plaintiff demands judgment against the defendants, jointly and severally for all damages properly recoverable in an action of this nature, all together with the costs and disbursements of this action.

JAROSLAWICZ & JAROS, LLC  
Attorneys for Plaintiff  
225 Broadway, 24<sup>th</sup> Floor  
New York, New York 10007  
(212) 227-2780

By: 

**David Jaroslawicz (DJ-6931)**

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09 Civ.  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WILLIAM CRUZ,

Plaintiff,

-against-

ONLY PROPERTIES, LLC and  
BONCHON CHAMBERS CORP.,

Defendants.

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***Summons & Complaint***

***Jury Trial Demanded***

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LAW OFFICES OF  
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